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Summary record of the 2686th meeting
Held at Headquarters, New York, on Monday, 8 March 2010, at 3 p.m.

Chairperson: Mr. Iwasawa

Contents

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Fifth periodic report of Mexico

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The meeting was called to order at 3.15 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Fifth periodic report of Mexico (CCPR/C/MEX/5)

1. *At the invitation of the Chair, the members of the delegation of Mexico took places at the Committee table.*

2. **Ms. Heredia Rubio** (Mexico), introducing the fifth periodic report of Mexico (CCPR/C/MEX/5), said that a number of changes had taken place since the fourth periodic report. The presidential elections of 2000 had begun a transition to political plurality and electoral transparency, building a democratic and lawful State that included human rights in its agenda. The fifth periodic report was particularly important as it demonstrated the current situation of human rights and included contributions from civil society organizations. It was regrettable that the National Human Rights Commission could not participate in the presentation of the report.

3. Three significant developments had marked the decade of 1999-2009, including the transition to political transparency, the acceleration of the construction of a modern democratic State governed by the rule of law, and the aggravation of threats from transnational organized crime. Significant challenges had been met and advances made. Independent electoral institutions guaranteed electoral transparency and mechanisms to promote equity in access to public posts. The 2005 electoral reforms had granted Mexicans living outside the country the right to vote, which was exercised for the first time in 2006. Electoral reform in 2007 guaranteed equal access to public posts by establishing term limits, promoting public over private campaign financing, and increasing gender quotas for federal public posts.

4. Her Government regretted that it had been unable to submit its documentation in all the Committee's working languages and hoped that translations would be provided by the conference services department of the United Nations.

5. Thanks to the electoral reforms, the Electoral Tribunal now had constitutional control over judgements in respect of political electoral rights, rectifying a gap noted by the Inter-American Court of Human Rights. Progress had been made at the federal and local levels to improve citizens' access to public information. Under the 2002 Federal Law on Transparency and Access to Public Government Information, the federal Government was required to guarantee access to information and protect personal information. The Law also contained provisions concerning the accountability of the State and created the Federal Institute for Access to Public Information to handle appeals by citizens who felt that the information they had been given was inadequate. Access to public information was also guaranteed by the constitutional reforms of 2007.

6. In respect of the right of assembly, the Government actively encouraged civil society participation in public affairs. Laws, including the Federal Law to Promote Activities of Civil Society Organizations, allowed civil society organizations to be more effective in public affairs. The National Council for the Prevention of Discrimination had been established under the 2003 Federal Law to Prevent and Eliminate Discrimination requiring the Government to promote effective conditions for equality. The National Human Rights Programme 2008-2012 encouraged public entities to promote respect for human rights and had developed surveys ("diagnoses") to monitor the human rights situation at the local level. A number of bodies had been created to promote human rights and the development of indigenous peoples, persons with disabilities, and women. The Commission on Government Policy on Human Rights promoted public human rights policy in conjunction with civil society.

7. The Code of Military Justice had been amended to abolish capital punishment and under the 2008 Reform of the Public Security and Criminal Justice System, the criminal justice system had been overhauled.

8. Mexico had now ratified nearly all the international treaties relating to human rights treaties and international humanitarian law, as well as a number of protocols, including the Second Optional Protocol of the International Covenant on Civil and Political Rights, the Protocol to the American Convention on Human Rights to Abolish the Death Penalty, the Rome Statute, the International Convention for the Protection of All Persons from Enforced Disappearance and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Government was anxious to cooperate with United

Nations treaty bodies and had extended an open invitation to the special procedures of the Human Rights Council. Recommendations made by treaty bodies had been incorporated into national human rights documents and had prompted the creation of human rights programmes. Work to promote and protect human rights had been carried out in close collaboration with the Inter-American Court of Human Rights.

9. Specific rights, including freedom of expression, had been strengthened; calumny and defamation had been decriminalized and the Office of the Special Prosecutor for Crimes against Journalists had been established to enhance the protection of communicators and journalists. Legal mechanisms were in place to combat torture and enforced disappearance, including the Federal Law to Prevent and Punish Torture and a national preventive mechanism for the prevention of torture pursuant to the Optional Protocol to the Convention against Torture. A special federal agency to address trafficking in persons as well as the Inter-agency Commission to Prevent and Punish Trafficking in Persons had also been established. The Istanbul Protocol had been incorporated into national law and the Federal Criminal Code had been amended to criminalize enforced disappearance. Her Government also planned to implement programmes for human rights education and the human rights of the elderly by mid-2010.

10. Despite the progress achieved, the Government continued to face significant challenges in consolidating the rule of law in a democratic State. Steps had been taken to guarantee the rights of citizens to security and to participate in public affairs. Constitutional reform was under way to strengthen relevant mechanisms and to incorporate a human rights perspective into the criminal justice and political systems. The Government was committed to promoting and defending human rights. Honest and respectful dialogue with the Committee would help Mexico to confront the challenges of building a modern democratic State and combating organized crime.

11. **The Chair** invited the delegation to address questions 1 to 13 on the list of issues (CCPR/C/MEX/Q/5).

12. **Mr. Negrín Muñoz** (Mexico) said that significant progress had been made in addressing the concerns on the list of issues. The draft decree providing for various amendments to the National Constitution in the area of human rights had been approved by the Chamber of Deputies of the Congress of the Union in April 2009. It called for changing the term "individual guarantees" to "human rights"; expanding the list of fundamental rights to include those recognized in international treaties ratified by the Government; taking a pro-person approach to the application of human rights standards; ensuring that the Government's obligation to promote and respect human rights and to investigate, punish and provide retribution for human rights violations was enshrined in the Constitution; guaranteeing that article 33 of the Constitution would not be applied unless a hearing had been held; and strengthening autonomous human rights bodies. The draft decree was under consideration by the Senate. The Supreme Court of Justice had ruled that international treaties in domestic law were secondary to the federal Constitution, but above federal and state laws. The draft decree would respect the same hierarchy upon entry into force. The Government had provided detailed information on specific examples of judicial proceedings, including *amparo* proceedings, in which the provisions of the Covenant or other international standards had been invoked. The delegation included representatives of the Federal Judiciary who could provide specific examples as needed.

13. Representatives of the Commission to Prevent and Eradicate Violence against Women and the National Institute for Women on the delegation could provide the Committee with details on institutional, legislative, budgetary and public policy developments. Between 1993 and May 2008, there had been 432 cases of femicide in Ciudad Juárez, Chihuahua and 243 persons had been implicated in the murders. The courts had handed down decisions in approximately 50 per cent of those cases. Seventeen per cent of the cases were currently being prosecuted and the remainder were under investigation.

14. In a multipronged approach to femicide and enforced disappearance of women in Ciudad Juárez (questions 3 and 4 on the list of issues), the Office of the Special Prosecutor for crimes of violence against women and human trafficking collaborated with the General Prosecutor's Office of Chihuahua, participated in searches for missing women and girls through a national warning system designed to mobilize authorities at all levels, and contributed to the economic assistance fund for relatives of homicide

victims in the municipality of Juárez. A broader strategy was in place and the Government hoped to share it with the Committee.

15. Chihuahua was one of the first states to reform its judicial system and move from an inquisitorial to an accusatory or adversarial process. The Office of the Special Prosecutor in Chihuahua had received 36 reports of enforced disappearances of women in January and February 2009. Thirty-two of the women had been found. There had been one report of femicide in the same period; 11 cases of femicide linked to organized crime and three homicides were under investigation.

16. Replying to question 5, he said that the Ministry of Labour and Social Security was working to promote a more inclusive and equitable work environment, to guarantee workers' rights and to prevent workplace exploitation, including in the maquiladora industry. In April 2002, a cooperation agreement to improve the working conditions of women in the maquiladora industry had been signed by the Ministry of Labour and Social Security and the National Maquiladora Industry Council. Other initiatives would be implemented in 2010. An Official Mexican Standard on the provision of health-care services in cases of domestic violence had also been elaborated by the federal Government.

17. Turning to question 6, he said that the Official Mexican Standard on domestic and sexual violence against women, criteria for response and prevention established that in cases of impregnation by rape, public institutions had to provide emergency services for legal interruption of the pregnancy, if requested. The criminal codes of the Federal District and the 31 states (federative entities) each contained regulations on abortion adapted to their specific situations. The Federal District decree reforming the criminal code and amending its General Law on Health to decriminalize abortion before the twelfth week had been deemed constitutional by the Supreme Court of Justice in 2008. The right to life from conception or fertilization had recently been incorporated into the constitutions of 18 states.

18. A network of more than 70 shelters for women victims of violence had been created. A support hotline for women victims of violence had fielded more than 70,000 calls between 2007 and 2009 and continuous awareness-raising campaigns were under way. Congress had approved a budget of more than $700 million for gender policy development and the prevention of violence against women. Legal aid centres for women had been created as a pilot project in Ciudad Juárez to create a concentrated model for women's access to justice.

19. The General Act on access by women to a life free of violence (question 7 on the list of issues) had been ratified by 31 federative entities and 18 had published its regulations. The General Act established a national database for information on cases of violence against women and a gender alert system to prevent, respond to, punish and eradicate violence against women. Chihuahua, the Federal District, Guerrero, Jalisco, Mexico, Nayarit and Tamaulipas were considering a similar mechanism at the state level. Training was being provided on the use of the warning system but no gender violence alerts had been issued as yet.

20. The recent Inter-American Court of Human Rights ruling on the *Campo Algodonero* case had called for the standardization of procedures for investigating sexual violence, updates to the gender alert system and the creation of both an Internet page with information about disappearances of women and a DNA database to identify missing women and children. The measures would bolster public and institutional policies on combating violence against women.

21. Turning to question 8 on the list of issues, he said that the draft amendment to the National Security Act did not subject rights recognized in the Covenant to derogation or revoke individual guarantees contemplated in article 29 of the Constitution. Submitted to Congress in April 2009, the draft amendment was designed to allow the armed forces and other State security forces to intervene in states of emergency affecting domestic security and was completely in keeping with article 4 of the Covenant. It established that a state of emergency should be declared in any situation that, were it not immediately addressed, would result in serious disturbance to public security and safety. However, that did not and would not imply the suspension of individual rights.

22. The armed forces were subordinate to civilian authorities but could provide assistance to them in combating organized crime in designated areas (question 9 on the list of issues). Case law studies had determined such assistance to be constitutional. Rights

recognized in the Covenant were respected in combating organized crime, and the armed forces were committed to transparency and cooperation in dealing with human rights violations. Human rights training programmes had been conducted for all members of the forces and a framework was in place for investigating and punishing human rights violations. The Ministry of National Defence had received 3,430 complaints of human rights violations by military personnel between 1 December 2006 and 28 February 2010. As a result, 51 recommendations had been issued by the National Human Rights Commission; they had been accepted and had prompted investigations and criminal trials. Four members of the armed forces had been convicted in civil court proceedings and 55 had been referred to the military tribunal, which had handed down eight sentences thus far.

23. Replying to question 10 on the list of issues, he said that enforced disappearance was classified as a crime in the Federal District, Chiapas, Durango, Oaxaca and Guerrero. Following closure of the Office of the Special Prosecutor for Social and Political Movements of the Past in 2006 (question 11), the General Coordinator for Investigations of the Attorney General's Office had assumed its duties. The interdisciplinary committee to compensate victims or complainants for violations of human rights of individuals associated with social and political movements of the past remained open; indeed, the Inter-American Court of Human Rights had recently issued a sentence in connection with a case of enforced disappearance that had occurred in 1974. The Special Prosecutor's Office had handled 275 cases of enforced disappearance, and the Inter-American Court of Human Rights had ordered the Government to amend article 215 of the Federal Penal Code on enforced disappearance in order to bring it into line with international standards. It had also ordered an amendment to article 57 of the Code of Military Justice and had mandated training programmes for state authorities. The Government fully intended to comply with the order and to continue to combat enforced disappearance.

24. Between 1992 and 2006, 74 persons had served sentences for the crime of torture (question 12 on the list of issues). Six persons had been sentenced by federal courts and one was undergoing trial. Two members of the armed forces were being tried for the crime of torture. The Government had made great strides in combating torture over the past decade, as indicated by the drop in complaints received by the National Human Rights Commission from 225 in 1991 to 4 in 2007. The 2008 constitutional reform of the judicial system had established the concept of presumption of innocence and invalidated confessions obtained by coercion. Legislation to prevent and punish the crime of torture was in place at the national level and in all federative entities. Under the January 2009 General Law on the National System of Public Security, security personnel were prohibited from inflicting or countenancing acts of torture under any circumstances. The Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) had been adopted in all federal institutions.

25. With regard to question 13 on the list of issues, he said that the Specialized Medical-Psychological Opinion for Cases of Possible Torture and/or Maltreatment had been adopted in 13 states, and prosecutors at all levels had been trained to use it. Mexico had ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and was making every effort to implement the recommendations made by the Subcommittee on Prevention of Torture following its recent visit. The incidence of torture remained a serious challenge. It was currently characterized under abuse of authority; however, its criminalization and punishment must be harmonized with international standards, and the effectiveness of the Istanbul Protocol as a training tool must be continuously evaluated. Lastly, setting up a national registry of torture cases would help to establish reliable parameters to ensure continued progress in combating the crime of torture.

26. **Sir Nigel Rodley**, referring to question 1 on the list of issues as well as question 18 on the amendment to article 33 of the Constitution, said that it was unclear whether the final decision on expulsion of asylum-seekers lay in the hands of the executive branch. It would be helpful to have a timeline that gave some idea of when the draft decree might be approved by the Senate and adopted by the federative entities. The meaning of the term "instruments for their protection" in the written reply to question 1 was unclear (CCPR/C/Mex/Q/5/Add.1, para. 5). It would be interesting to have more specific information on how

international treaties were incorporated into domestic law, and, in particular, on the 4 March 2010 Supreme Court ruling that international human rights treaties did not have automatic force of law.

27. The low prosecution rate in respect of torture and other human rights violations by members of the armed forces betrayed a lack of seriousness about punishing such crimes. He would welcome further explanation of the State party's approach to the burden of proof and inadmissibility in torture trials. Had states followed the lead of the Federal District in providing audio-visual recordings of interrogations? He commended efforts to systematize medical records of torture and maltreatment but noted that very few of the states that provided training in the approved method of medical legal reporting were actually implementing it in practice. Lastly, it was difficult to understand why the definition of torture by international bodies had not been respected by a number of states even though it was incorporated in their legislation.

28. **Mr. Salvioli** said that he would be grateful for more specific information about violence against women and the principle of equality and non-discrimination. In its fourth periodic report, the State party had maintained that the situation of violence against women in Mexico was comparable to the situation worldwide. Why did the fifth periodic report refute that? Additional information on Mexico's response to the decision of the Inter-American Court of Human Rights in the *Campo Algodonero* case would be helpful, as would detailed information about how many perpetrators of gender violence and femicide had been sentenced and punished. He also wished to know whether the federal Government took any action when states placed constitutional obstacles in the way of implementing the Covenant. Referring to question 7 on the list of issues, he noted that some states had not introduced the reforms necessary to harmonize their legislation with the General law on access by women to a life free of violence and the provisions of the Covenant. Laws to combat discrimination had not been adopted and there were no statistics on discrimination complaints or their outcomes. The ruling by the Supreme Court of Justice restricting the jurisdiction of the National Human Rights Commission was worrisome. Additional information on strategies to combat violence against women in Ciudad Juárez would be welcome, as would details on the situation of women in prison.

29. **Mr. Rivas Posada** said that amendments to the Law on National Security overlooked the risk of derogating rights guaranteed by the Covenant or of limiting rights in combating organized crime. Additional information, including the duration of participation of the armed forces, would be welcome. The State party needed to beware of how rights could be derogated and how federative entities could implement legislation to circumvent compliance with international treaties. Were the armed forces derogating rights guaranteed in the Constitution and the Covenant under the state of emergency in Chihuahua? Lastly, the Committee would appreciate additional information on the number of human rights abuse complaints received and the number resolved.

30. **Ms. Chanet** said that a general overview of initiatives and programmes would be helpful to the Committee in its efforts to understand how rights were guaranteed in the Constitution. Since the State was undergoing constitutional reform, it might wish to consider withdrawing its reservations to the Covenant at the same time. It was unclear whether the law against enforced disappearance was applicable in all 31 federative entities. Further information on how and when the State party would amend article 215 of the Federal Penal Code would be useful. The Committee wished to know why the Office of the Special Prosecutor for Social and Political Movements of the Past had been closed (question 11 on the list of issues), and why it had not been re-opened as recommended by the Human Rights Council. Details should be provided on the status of the enforced disappearance of José Angel Alvaredo Herrera, arrested on 12 January 2010 by the armed forces. It would also be useful to know the status of the amendment to article 57 of the Code of Military Justice recommended by the Inter-American Court of Human Rights.

31. **Mr. Lallah** said that it was regrettable that the State party's fifth periodic report did not address the Committee's 1999 concluding observations, and that late submission of the report precluded it from analysis by the Special Rapporteur for Follow-up on Concluding Observations. Specific examples of how the Government valued the work of the Committee would be useful. No cases had as yet been considered under the Optional Protocol. He reminded the State party that the Committee had a Special Rapporteur on new communications and interim measures under the Optional Protocol, and asked whether it had publicized

its obligations under the Covenant. The State party should respect established timelines so that the Committee could fulfil its duty of ensuring that the Covenant was effectively applied. It was regrettable that a number of Committee members could not assess the report as it had not been translated. He hoped that Mexico's future periodic reports would be available in all the Committee's working languages.

32. **Mr. Amor** requested additional information about cases in which the Covenant had been invoked before national courts and the subsequent reaction of the courts. The relationship between the federative entities and the national Government should be clarified. It would be interesting to learn whether there were initiatives at the state level to combat misogynist stereotypes perpetuating gender discrimination in areas including the family, economy, and society, and whether there were incentives for compliance and consequences for non-compliance. The reporting State should be more specific about initiatives taken to promote a change in mentality to combat gender discrimination.

33. **Mr. Pérez Sánchez-Cerro** said that while some states might resist compliance with the Covenant in respect of freedom of expression, the Government was required to comply. In that connection, he noted that 13 murders of journalists had not been investigated. The Government should review and investigate the denial of due process in cases of torture and imprisonment. Murders of human rights defenders and their imprisonment without due process should also be investigated. Despite Government efforts, there was no gender legislation and the rights of female prisoners were not adequately protected. The State party should review its penitentiary system with a view to incorporating a gender perspective.

34. **Ms. Keller** said that mixed-gender prisons were a violation of the Covenant. It would be useful to know how many women were in such prisons, what measures the Government had taken to protect their rights, and what measures had been taken to resolve the issue.

35. **Ms. Motoc** said that she would appreciate additional information on efforts to promote gender equality and the political participation of women, and on how the Government reconciled tradition with equality in the case of indigenous women. The Committee also wished to know more about the situation of women prisoners with children.

36. **Mr. Flaherty** drew attention to a report by a non-governmental organization (NGO) citing the State party's failure to implement its legislation relating to sexual orientation and gender identity. Changes to such laws did not address serious discrimination problems in the workplace and schools, and there was no reference to gender identity in the anti-discrimination legislation of the federative entities. The Committee would be grateful for information on efforts to bridge the gap between the de jure and de facto realities, and to amend anti-discrimination legislation to include provisions on gender identity. Information about public awareness campaigns and education programmes to change stereotypical perceptions in society would also be useful. Could the delegation describe how the Government ensured the uniform and efficient investigation of hate crimes targeting sexual minorities? Details on whether the mandate of the National Human Rights Commission had been expanded to include labour issues would be helpful. In conclusion, he asked how the Mexican Government intended to implement the recommendations made under the Universal Periodic Review, which it had accepted, and whether it would consider extending the same cooperation and employing the same mechanisms in responding to the concluding observations that would be adopted by the Committee.

37. **Ms. Carrera Lugo** (Mexico) said that the fourth periodic report had not acknowledged violence against women because no reliable information had been available at the time. Initiatives to gather data had been launched after the Fourth World Conference on Women. The first survey on family violence and violence against women had been taken in 1999 and a follow-up survey, in 2003; however, the 2006 survey had been the most comprehensive. Nevertheless, all the legislation and programmes that had been introduced had yielded very little in the way of eradicating violence against women. Perhaps efforts had been too focused on judicial and penal measures and not enough on public awareness and programmes to change stereotypical perceptions in society as a whole.

38. Violence against women had to be addressed differently by each state because each state faced different challenges stemming from the specific cultural and societal values of its population. Violence in Juárez and Tijuana on the northern border was radically different from violence faced in Tapachula on the southern border. Ciudad Juárez, one of the largest

regions in northern Mexico, had been the scene of conflicts throughout its history owing to the many nationalities that converged there and its role as an immigration point for all Latin America. The highly complex and problematic situation affected the use of space and how people interacted, generating diverse social behaviours. Therefore programmes in Ciudad Juárez had to consider socio-geographic and multicultural concerns and intervene at every level of the state as well as civil society in an effort to build the social fabric and modify cultural patterns that marginalized women based on gender. The interests of all groups, including marginalized groups, had to be taken into account. The goal was to temper social dynamics that led to violence through long- and short-term programmes and plans of action to prevent violence, restore security and well-being, and promote cultural and social cohesion. And women were assuming leading roles in the process.

39. Initiatives to improve women's access to the justice system included one-stop legal aid centres that consolidated public and legal services for women. While most states had passed gender-specific laws and participated in the gender alert system, more consistent efforts were required to harmonize both national and state-level legislation with international treaties. The Government would have to work closely with states to that end and in the meantime, was in the process of ensuring greater uniformity among the criminal codes of the federative entities.

The meeting rose at 6 p.m.